



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, RR, FF

Introduction

This is an application filed by the tenant for an order cancelling a notice to end tenancy issued for cause, a monetary claim for money owed or compensation for damage or loss, an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

At the outset of the hearing the tenant withdrew her application to be allowed to reduce rent. As such, no further action is required for this portion of the claim.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the notice to end tenancy?

Is the tenant entitled to a monetary order?

Is the tenant entitled to an order to reduce rent?

Background and Evidence

This tenancy began on June 1, 2014 on a fixed term tenancy ending on June 1, 2015 as shown by the submitted copy of the signed tenancy agreement dated May 2, 2014. The monthly rent is \$1,400.00 payable on the 1st of each month and a security deposit of \$700.00 was paid.

Both parties confirmed that the landlord served the tenant with a 1 month notice to end tenancy issued for cause dated August 27, 2014 that displays an effective end of tenancy date of September 30, 2014. The landlord's reasons for cause are listed as:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord.
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- put the landlord's property at significant risk.

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.
- jeopardize a lawful right or interest of another occupant or the landlord.

Tenant has caused extraordinary damage to the unit/site or property/park.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord states that the tenant is keeping a pet and that there is a no pet clause in the signed tenancy agreement. The landlord also states that there are issues with the disposal of pet waste. The tenant confirms that they have a guinea pig as a pet, but that they have the verbal permission of the landlord. The landlord disputes this claim stating that at no time was there permission granted for a pet.

The landlord also lists that the tenant is storing a recreational vehicle on the property without proper insurance. The tenant disputes this stating that the "recreational vehicle" is an electric scooter which has pedals which exempts it from the requirement of insurance or a license. The landlord has confirmed that the "recreational vehicle" is an electric scooter with pedals, but states that the pedals are not properly affixed to the scooter.

The landlord states that the tenant was late paying rent 1 time in August 2014. The tenant disputes this stating that although rent was paid late, it was because the landlord refused to come pick it up. The tenant stated that it was the practice of the landlord to attend and pick up the monthly rent at their door. The landlord disputes this stating that it is the responsibility of the tenant to pay the landlord the monthly rent. The landlord states that the tenant has inappropriately paid the rent by throwing it in cash over the side of the balcony to the landlord. The tenant provided direct testimony that this was

one occasion where it was payment for utilities and that the tenant was short ½ of the payment and asked the landlord's friend if it was ok to pass it down in this manner to forward to the landlord. The landlord states that the tenant has contradicted herself by stating that payment of rent was the strict responsibility of the landlord in attending and collecting the rent.

The landlord states that the tenant installed a camera on the structure of the house without permission of the landlord and refused to remove it after being asked to. The tenant states that her car light was broken and that this "camera" was installed but that it is a fake one to deter vandalism. The tenant confirmed that the "camera" was installed without permission and is now willing to remove it.

The landlord also states that the tenant has damaged the property of the rental, ie. plants, is storing personal property in the common areas, attached a foil covering on the windows, removed a pool light, harass the landlord's guests and disturb the landlord is excessive noise. The landlord also states that the tenant is refusing access to the landlord for entry into the rental area. The tenant disputes these claims stating that there is no damage caused and that the landlord has not provided any evidence of damage.

The tenant also seeks a monetary claim of \$13,600.00 to cover the cost of packing and moving, for the cost of restoring their smoke damaged personal property. The tenant states that this is based upon verbal quotes for moving of \$1,160.00, packing for \$900.00 and for \$3,000.00-\$5,000.00 for restoration work. The landlord disputes this claim stating that it is arbitrary and without merit as the tenant has not provided any written estimates/quotes or any other material to support this claim.

Analysis

I accept the evidence of both parties and find based upon the written submission and the direct testimony of both parties that the tenant has failed in their claim to obtain an order to cancel the notice to end tenancy. The landlord's reason for cause states that there are no pets allowed as per the signed tenancy agreement. Based upon the tenant, N.G.'s own direct testimony that there is a house pet which is contrary to the signed tenancy agreement. The tenant states that permission was granted, but has failed to provide sufficient evidence to satisfy me that this term in the tenancy agreement was voided by the landlords consent. As such, the landlord has established his reasons for cause. The tenant's application is dismissed. The landlord is granted an order of possession as a result of the 1 month notice to end tenancy dated August 27, 2014 which was properly served.

I find that as this reason for cause has been justified that no further details are to be dealt with concerning the end of tenancy. The effective end of tenancy date for the order of possession shall be September 30, 2014 as the 1 month notice to end tenancy issued for cause as it has been upheld. The order of possession must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the tenant's monetary claim, I find that the tenant has failed to provide sufficient evidence to satisfy me. The tenant has provided a copy of two letters which support the tenant's claim that there was smoke present in the rental, but not from where it came. The letters bear witness that there was smoke present. I prefer the tenant's evidence over that of the landlord that there was smoke present. However, the tenant has failed to establish the monetary claim of smoke damage requiring compensation or to what degree there is of a smoke presence. The tenant has provided no supporting evidence to establish the amount being claimed or a basis to quantify it. The tenant has stated that a restoration company was engaged to conduct an inspection and provide an estimate for the cost of restoration work to remove the smoke smell, but has not provided any. As such, the tenant's monetary claim is dismissed for lack of sufficient evidence.

Conclusion

The landlord is granted an order of possession.
The tenant's monetary claim is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 17, 2014

Residential Tenancy Branch

